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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

PAUL MANEY; GARY CLIFT; GEORGE
NULPH; THERON HALL; DAVID HART;
SHERYL LYNN SUBLET; and FELISHIA
RAMIREZ, personal representative for the
ESTATE OF JUAN TRISTAN, *individually,
on behalf of a class of other similarly situated,*

Plaintiffs,

v.

STATE OF OREGON; KATE BROWN;
COLETTE PETERS; HEIDI STEWARD;
MIKE GOWER; MARK NOOTH; ROB
PERSSON; KEN JESKE; PATRICK
ALLEN; JOE BUGHER; and GARRY
RUSSELL,

Defendants.

Civil Case No. 6:20-cv-00570-SB

**DEFENDANT PATRICK ALLEN'S
NOTICE OF APPEAL**

Notice is hereby given that defendant Patrick Allen, in his individual capacity, in the above-named case hereby appeals to the United States Court of Appeals for the Ninth Circuit from the District Court's February 8, 2022 Opinion and Order (ECF No. 350) (the "Order") denying his Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (ECF No. 281) based on immunity from suit and liability under the Public Readiness and Emergency Preparedness Act, 42 U.S.C. § 247d-6d (the "PREP Act"). Interlocutory review of this order is provided for as a matter of right under the collateral order doctrine.¹

A representation statement is attached hereto pursuant to 9th Cir. R. 3-2.

DATED: March 9, 2022.

CABLE HUSTON LLP

By: s/ Jon W. Monson

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¹ Defendant Allen could also appeal the Order as a matter of right to the Circuit Court of Appeals for the District of Columbia under 42 U.S.C. § 247d-6d(e)(10), which states: "The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction of an interlocutory appeal by a covered person taken within 30 days of an order denying a motion to dismiss or a motion for summary judgment based on an assertion of the immunity from suit conferred by subsection (a) [of the PREP Act]." The D.C. Circuit is currently considering whether § 247d-6d(e)(10) confers jurisdiction on the D.C. Circuit to review interlocutory appeals of district court orders denying a motion to dismiss based on PREP Act immunity—including orders by district courts outside the D.C. Circuit. *See, e.g., Cannon v. Watermark Ret. Cmities., Inc.*, D.C. Circuit Case No. 21-7067 (scheduled for oral argument on Apr. 28, 2022); *Beaty v. Fair Acres Geriatric Ctr.*, D.C. Circuit Case No. 21-7096 (same). Defendant Allen reserves the right to seek a transfer of this appeal to the D.C. Circuit under § 247d-6d(e)(10).

REPRESENTATION STATEMENT

Pursuant to 9th Cir. R. 3-2, I hereby provide the following Representation Statement identifying all parties to the action along with the names, addresses, and telephone numbers of their respective counsel:

PARTIES	COUNSEL OF RECORD
Defendant-Appellant Patrick Allen, in his individual capacity only	Jon W. Monson Nicole A.W. Abercrombie CABLE HUSTON LLP 1455 SW Broadway, Suite 1500 Portland, OR 97201-3412 Tel: (503) 224-3092 Fax: (503) 224-3176 jmonson@cablehuston.com nabercrombie@cablehuston.com
Plaintiffs-Appellees Paul Maney, Gary Clift, George Nulph, Theron Hall, David Hart, Sheryl Lynn Sublet, and Felisha Ramirez, personal representative for the Estate of Juan Tristan, individually, and on behalf of a putative class of other similarly situated	Juan C. Chavez Brittney Plessner Franz Bruggemeier Alex Meggitt Benjamin Haile OREGON JUSTICE RESOURCE CENTER P.O. Box 5248 Portland, OR 97208 Tel: (503) 944-2270 Fax: (971) 275-1839 jchavez@ojrc.info bplessner@oregoninnocence.info fbruggemeier@ojrc.info alex.meggitt@gmail.com attorneyhaile@gmail.com David F. Sugerman Nadia H. Dahab SUGERMAN DAHAB 707 SW Washington St. Ste. 600 Portland, OR 97205 Tel: (503) 228-6474 Fax: (503) 228-2556 david@sugermandahab.com nadia@sugermandahab.com

PARTIES	COUNSEL OF RECORD
<p>Defendants State of Oregon, Kate Brown, Colette Peters, Heidi Steward, Mike Gower, Mark Nooth, Rob Persson, Ken Jeske, Patrick Allen, in his official capacity, Joe Bugher, and Garry Russell</p>	<p>Kerry J. Shepherd Molly K. Honoré Robert Kyle Busse Jermaine F. Brown MARKOWITZ HERBOLD PC 1455 SW Broadway, Suite 1900 Portland, OR 97201 Telephone: (503) 295-3085 Fax: (503) 323-9105 KerryShepherd@MarkowitzHerbold.com MollyHonoré@MarkowitzHerbold.com KyleBusse@MarkowitzHerbold.com JermaineBrown@MarkowitzHerbold.com</p> <p>Tracy Ickes White OREGON DEPARTMENT OF JUSTICE 1162 Court Street NE Salem, OR 97301-4096 Tel: (503) 947-4700 Fax: (503) 947-4791 tracy.i.white@doj.state.or.us</p>
<p><i>Amicus Curiae</i> M.D. Joseph Goldenson, D.O. Michael Puisis, and M.D. Robert Cohen</p>	<p>Shannon Lea Armstrong Kristin M. Asai HOLLAND & KNIGHT LLP 601 SW Second Ave Ste 1800 Portland OR 97204 Tel: (503) 517-2924 Fax: (503) 241-8014 shannon.armstrong@hklaw.com kristin.asai@hklaw.com</p> <p>Joseph Bial Paul, Weiss, Rifkind, Wharton & Garrison LLP 2001 K Street, NW Washington D.C., DC 20006-1047 Tel: (202) 223-7300 jbial@paulweiss.com</p>